

HOUSE BILL 2748

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 6, Part 42, relative to the testing of certain
students.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 42, is amended by
adding the following new section:

Section 49-6-4219.

(a) In addition to the "for cause" testing permitted by § 49-6-4213, a
student voluntarily participating in extracurricular activities may be subject to
random testing for the presence of drugs in the student's body in accordance with
this section and the policy of the LEA. To conduct such random tests, all of the
following standards of reasonableness shall be met:

(1) The test will yield evidence of the violation of school policy or
will establish that a student either was impaired due to drug use or did not
use drugs;

(2) The test is in pursuit of legitimate interests of the school in
maintaining order, discipline, safety, supervision and education of
students;

(3) The test is not conducted for the sole purpose of discovering
evidence to be used in a criminal prosecution; and

(4) Tests shall be conducted in the presence of a witness.

Persons who shall act as witnesses shall be designated in the policy of
the local board of education.

(b) For the purposes of this section and § 49-6-4203, "drugs" means:

(1) Any scheduled drug as specified in §§ 39-17-405-39-17-416; and

(2) Alcohol.

(c) Before a random drug testing program for students voluntarily participating in extracurricular activities is implemented in any LEA, the local board of education in that LEA shall establish policies, procedures and guidelines to implement this section within that LEA. The state board of education shall prepare a model policy, procedure and guidelines which may be adopted by local boards of education.

(d) Tests shall be conducted by properly trained persons in circumstances that ensure the integrity, validity, and accuracy of the test results but are minimally intrusive and provide maximum privacy to the tested student. All tests shall be performed by an accredited laboratory. Specimens confirmed as positive shall be retained for possible retesting or reanalysis for at least ten (10) days.

(e) Students shall be advised in writing at the time of their enrollment that if they voluntarily participate in extracurricular activities, they are subject to random drug testing. Notice to each student shall include that the testing will be random, the procedures that will be followed, and possible penalties. Students shall be advised of their right to refuse to undergo drug testing and the consequences of such refusal.

(f) A parent of the student or a person legally responsible for the student shall be notified before the student voluntarily participates in an extracurricular activities that a random drug test may be administered to the student.

(g) The LEA shall pay the cost of any testing required this section.

(h) Test reports from laboratories shall include the specimen number assigned by the submitting LEA, the drug testing laboratory accession number and results of the drug tests. Certified copies of all analytical results shall be available from the laboratory when requested by the LEA or the parents of the student. The laboratory shall not be permitted to provide testing results verbally by telephone.

(i)

(1) All specimens testing negative on the initial screening test or negative on the confirmatory test shall be reported as negative.

(2) If a student is tested and the results of the test are negative, all records of the test, or indication a student has been tested, shall be expunged from all records, including school records.

(j) The principal or school counselor of the school in which a student who tests positive in a random drug testing program pursuant to this section is enrolled shall provide referral information to such student and to such student's parents or guardian. Such information shall include information on inpatient, outpatient and community-based drug and alcohol treatment programs.

(k) Malicious use of authority granted by this section may be grounds for dismissal of the person so acting.

SECTION 2. For the purposes of the state board preparing a model policy, procedure and guidelines, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect in implementing LEA's during the 2008-09 school year.